

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 538
SPONSOR: Regulated Industries Committee and Senator Lynn
SUBJECT: Stacy Young Act
DATE: March 12, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>FAV/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides that this act may be cited as the Stacy Young Act.

The bill provides as follows:

- Defines the term “amateur sanctioning organization, and amends the definitions for the terms “contest” and “exhibition.”
- Rule making authority is granted to the Florida State Boxing Commission (commission) for the establishment of criteria for the approval, disapproval, suspension of approval, and revocation of amateur sanctioning organizations for amateur boxing and kickboxing matches.
- Provides emergency rulemaking authority.
- Establishes standards and requirements for the regulation of amateur matches by the commission.
- The commission is granted the exclusive jurisdiction over the approval, disapproval, suspension of disapproval, and revocation of approval of all amateur sanctioning organizations for amateur boxing matches held in this state.
- Amateur matches that are not sanctioned and supervised by an amateur sanctioning organization approved by the commission are prohibited.
- The commission is required to make periodic compliance checks.
- Any member of the commission or the executive director of the commission may suspend the approval of a sanctioning organization if it fails to comply with health and safety standards.
- Any member of the commission, or commission representative, may immediately stop a boxing or kickboxing match if it appears the match violates the health and safety

standards required by rule. It authorizes law enforcement personnel to assist to enforce the order to stop the match.

- The commission must review at least biennially its approval of an amateur sanctioning organization.
- No match that utilizes strikes to the head may be held in this state unless it is sanctioned and supervised by an amateur sanctioning organization approved by the commission.
- No professional match may be held unless it meets the statutory and rule requirements for holding the match.
- Amateur mixed martial arts matches are prohibited.
- Exempts matches conducted or sponsored for participants of a bona fide nonprofit boxing, kickboxing, or martial arts school or education program, and exempts matches for members of the Florida National Guard conducted or sponsored by any company or detachment of the Guard.
- Deletes promoters from the list of persons restricted from having a financial interest in a match participant.

This bill would take effect upon becoming law.

This bill substantially amends the following sections of the Florida Statutes: 548.002, 548.003, 548.006, 548.007, 548.008, and 548.056.

The bill creates section 548.0065, Florida Statutes.

II. Present Situation:

The Florida State Boxing Commission (commission) is established within the Department of Business and Professional Regulation. The commission consists of five members who are appointed by the Governor. The commission is the agency responsible for the enforcement of ch. 548, F.S., regarding the regulation of pugilistic exhibitions. Section 548.001, F.S., provides that the provisions constituting ch. 548, F.S., shall be known and may be cited as the "Joe Lang Kershaw Act."

Definitions

Section 548.002(1), F.S., defines the term "amateur" to mean:

... a person who has never received nor competed for any purse or other article of value, either for expenses of training or for participating in a match, other than a prize of \$50 in value or less.

Section 548.002(5), F.S., defines the term "contest" to mean "...a boxing, kickboxing, or mixed martial arts engagement in which the participants strive earnestly to win."

Section 548.002(7), F.S., defines the term "exhibition" to mean "...a boxing, kickboxing, or mixed martial arts engagement in which the participants show or display their skill without necessarily striving to win."

Section 548.002(2), F.S., defines the term “boxing” to mean a competition with fists.

Section 548.002(10), F.S., defines the term “kickboxing” to mean “... to compete with the fists, feet, legs, or any combination thereof, and includes "punchkick" and other similar competitions.”

Section 548.002(14), F.S., defines the term “mixed martial arts” to mean:

...unarmed combat involving the use, subject to any applicable limitations set forth in this chapter, of a combination of techniques from different disciplines of the martial arts, including, but not limited to, grappling, kicking, and striking.

Section 548.007, F.S., provides that, with the exception of s. 548.008, F.S., the provisions of ch. 548, F.S., do not apply to the following:

- (1) Any match in which the participants are amateurs;
- (2) Any match conducted or sponsored by a university, college, or secondary school if all the participants are students regularly enrolled in the institution;
- (3) Any match conducted or sponsored by a nationally chartered veterans' organization registered with the state;
- (4) Any match conducted or sponsored by any company or detachment of the Florida National Guard; or
- (5) Any official Olympic event.

The effect of the exemptions in s. 548.007, F.S., is to remove the listed types of matches from the regulatory jurisdiction of the commission.

Section 548.008(1), F.S., prohibits professional and amateur toughman or badman matches. This provision defines such matches as including:

...any contest or exhibition where participants compete by using a combination of skills. Such skills may include, but are not limited to, boxing, wrestling, kicking, or martial arts skills.

Current law, including the rules of the commission,¹ does not define the terms “toughman or badman matches.”

Section 548.008(1), F.S., specifically exempts kickboxing or mixed martial arts as regulated by ch. 548, F.S., from this prohibition. A violation of this provision would constitute a second degree misdemeanor.

Chapter 548, F.S., requires the licensure or permits for promoters,² and foreign co-promoters³. A permit is also required for any participant, manager, trainer, second, timekeeper, referee, judge,

¹ Chapters 61K1-1 and 61K1-2, F.A.C.

² Section 548.012, F.S.

³ Section 548.013, F.S.

announcer, physician, matchmaker, concessionaire, or booking agent or representative of a booking agent.⁴

Section 548.07, F.S., authorizes summary suspensions of licenses and permits if it is necessary to protect the public welfare and the best interests of the sport. The commission must hold a hearing within 10 days after the date on which the license or permit is suspended. Any member of the commission may issue the suspension order.

Preemption

Section 548.006, F.S., grants the commission exclusive jurisdiction over professional matches in this state. Current law does not provide for state preemption of amateur matches.

The Stacy Young Case

According to published reports, on June 14, 2003, Stacy Young, age 30, of Bradenton, Florida, competed in a toughman amateur bout in Sarasota, Florida. During the contest Mrs. Young was repeatedly hit in the head by her bout competitor, another Sarasota woman. Mrs. Young, who was a mother of two, had no prior fight experience. She suffered severe blunt trauma to the head, was declared brain dead, and subsequently died of her injuries. Mrs. Young was uninsured.⁵ Her death was ruled an accident by the Pinellas County Medical Examiner's Office.⁶ According to news reports four people died from injuries sustained in amateur toughman contests during the previous year.⁷

Regulation by Local Governments

In September, 2003, the Sarasota County Commission approved a new ordinance governing amateur fights as a result of the death of Mrs. Young. The Sarasota ordinance requires a permit for any amateur boxing, kickboxing, and martial arts match or exhibition conducted in any premises licensed to sell alcohol or where an admission fee is charged. The Sarasota ordinance requires that the match must be governed by a sanctioning body such as the USA Boxing, the Amateur Athletic Union, or another body approved by the county administrator. Promoters of amateur boxing, kickboxing, and martial arts matches are required to have a licensed doctor at ringside, and have a waiting ambulance with at least two emergency technicians on site. Contestants have to register and be matched with their opponent at least two days before the match. Contestants must receive a pre-match and post-match physical by a licensed physician.

In 2002, the Jacksonville City Council enacted an ordinance that prohibited "fight nights" or other similar events on premises that are licensed by the state to sell and serve alcoholic beverages.⁸ It prohibits a vendor from "encouraging, conducting, permitting or authorizing

⁴ Section.548.017, F.S.

⁵ Haas, Brown, "Bradenton Woman Dies Seeking Adventure," *The Bradenton Herald*, June 18, 2003; A1.

⁶ Chachere, Vickie, "Report Filed in Boxing Death," *Tallahassee Democrat*, June, 23, 2003; B5.

⁷ Zucco, Tom, "Fighting Fatality Ruled an Accident," *St. Petersburg Times*, August 12, 2003; A1.

⁸ This ordinance was in response to the death of a 23 year old Jacksonville man, Nelson Land, who was knocked unconscious at a bar "fight night" on May 3, 2002 and died three days later on May 6, 2002. Galnor, Matt, "Boxing is Down for the Count – Jacksonville Bars Bar Patron Matches," *Florida Times-Union*, July 26, 2002; B1.

persons to fight, box, wrestle, kickbox, or use martial arts skills in a combative manner that creates a public display or is intended as entertainment.⁹ The ordinance excludes contestants that are amateurs if the contest is governed and authorized by USA Boxing, American Boxing and Athletic Association, International Sports Combat Federation, International Kickboxing Federation or the Jacksonville Fraternal Order of Police Consolidated Lodge 5-30.¹⁰ The ordinance does not apply to any match, contest or exhibition governed by ch. 548, F.S. It provides that contestants have to register and be matched at least seven days before the match. It also provides other requirements, penalties and the ability for law enforcement to stop the fight.

Preemption

Regulation of a subject may be expressly or by impliedly preempted to the state. In order for a subject matter to be expressly preempted to the state, the express preemption language must be a specific statement. Express preemption cannot be implied or inferred. Implied preemption exists where the legislative scheme is so pervasive that it completely occupies the field.¹¹ Moreover, the Florida Constitution provides that county ordinances must not be inconsistent with general law.¹²

Amateur Sanctioning Organizations

United States Amateur Boxing, Inc. (USA Boxing) is a national governing body for Olympic-style boxing. It is the United States' member organization of the International Amateur Boxing Association. USA Boxing administers, develops, and promotes Olympic-style boxing in the United States. USA Boxing is a non-profit organization and is overseen by a Board of Directors. Formerly known as the United States Amateur Boxing Federation, it has governed men's amateur boxing in the United States since 1888. Its headquarters is in Colorado Springs, Colorado.

The following organizations are USA Boxing-approved member organizations that abide by USA Boxing's official rules, regulations, and policies:¹³

- Golden Gloves Association of America, Inc.
- National Association of Police Athletic Leagues
- National Collegiate Boxing Association
- Native American Sports Council
- Silver Gloves Association

Moreover, USA Boxing recognizes each branch of the U.S. Armed Forces as a member.¹⁴

International Sport Kickboxing Association (ISKA) is an international governing body for amateur and professional kickboxing. ISKA administers, develops, and promotes kickboxing in

⁹ City of Jacksonville, Ordinance Code s. 154.113(a)(9).

¹⁰ Id at s. 154.113(c)(1).

¹¹ *Hillsborough County v. Florida Restaurant Association*, 603 So.2d 587 (Fla. 2nd DCA 1992).

¹² Article VIII, ss.1(f) and (g), Fla. Const.

¹³ United States Amateur Boxing, Inc., *Official Rules 2002*.

¹⁴ *Id.*

the United States. It has been sanctioning and regulating events in men's and women's amateur kickboxing in the United States since 1986. It maintains its headquarters in Gainesville, Florida.

III. Effect of Proposed Changes:

Section 1. The bill provides that this act may be cited as the Stacy Young Act.

Section 2. The bill creates s. 548.002(2), F.S., to provide a definition for the term “amateur sanctioning organization, which it defines as “any business entity organized for sanctioning and supervising matches involving amateurs.

The bill amends the definitions in ss. 548.002(5) and (7), F.S., for the terms “contest” and “exhibition,” respectively, to include in each definition a reference to the use of strikes and blows to the head by contest or exhibition participants.¹⁵ The bill further clarifies that boxing, kickboxing, or mixed martial arts contest or exhibition participants are not necessarily limited to using strikes and blows to the head.

Section 3. The bill amends s. 548.003(2), F.S., to provide rule making authority to the commission for the establishment of criteria for approval, disapproval, suspension of approval, and revocation of amateur sanctioning organizations for amateur boxing and kickboxing matches held in this state. The rulemaking authority includes health and safety standards used by the sanctioning organizations, including the number and qualifications for health care personnel required to be present at matches.

The bill authorizes the commission to adopt by rule, or incorporate by reference into rule, the health and safety standards of USA Boxing and the International Sport Kickboxing Association for their respective sports. It requires that the commission review these rules at least every two years. The bill also provides the commission with emergency rulemaking authority to administer this provision.

Section 4. The bill amends s. 548.006, F.S., to provide that the commission shall have exclusive jurisdiction over the approval, disapproval, suspension of disapproval, and revocation of approval of all amateur sanctioning organizations for amateur boxing matches held in this state.

This provision is more narrowly drawn than the provision in s. 548.006, F.S., which establishes the commission's exclusive jurisdiction over professional matches in this state. As written, this provision does not expressly preempt to the state the regulation of amateur matches. However, the regulatory scheme established under this act for amateur matches may establish an implied preemption to the state for regulation of such matches.

The bill amends s. 548.006(2), F.S., to include the qualifying term “professional” in reference to mixed martial arts and kickboxing and record keeping requirements of this provision.

¹⁵ The bill also renumbers the definitions for the terms “contest” and “exhibition” as ss. 548.002(6) and (8), F.S., respectively.

Section 5. The bill creates s. 548.0065, F.S., to provide standards and establish requirements for the regulation of amateur matches by the commission.

Subsection (1) of s. 548.0065, F.S., prohibits amateur matches in this state, unless the match is sanctioned and supervised by an amateur sanctioning organization approved by the commission. The provision specifies that an amateur sanctioning organization may only sanction and supervise a contest or exhibition in the particular sports or sports in which it has expertise and for which it is approved by the commission.

Subsection (2) of s. 548.0065, F.S., provides that the commission may not approve any amateur boxing organization unless it has adopted and agreed to enforce a set of standards that applies to all matches. Those standards must adequately protect the health and safety of the amateur participants and the public. The organization must also demonstrate to the commission that it has sufficient background, training, and experience in sanctioning and supervising matches for which the organization is approved.

Subsection (3) of s. 548.0065, F.S., provides for periodic compliance checks by the commission to ensure enforcement of approved health and safety standards and supervision of matches by approved amateur sanctioning organizations.

Subsection (4) of s. 548.0065, F.S., provides that any member of the commission may suspend the approval of a sanctioning organization for failure to supervise the amateur matches or to enforce the approved health and safety standards. The suspension must comply with the suspension procedures in s. 120.60(6), F.S. The commission must hold a hearing within 10 days after the date on which the approval is suspended.

The bill provides that any member of the commission, or commission representative, may immediately stop a boxing or kickboxing match if it appears the match violates the health and safety standards required by rule as required by ch. 548, F.S. It provides that law enforcement personnel may assist any member of the commission, or commission representative, to enforce the order to stop the match.

Subsection (5) of s. 548.0065, F.S., provides that the commission shall review at least biennially its approval of an amateur sanctioning organization. It may also review the organization more frequently if it determines that it is necessary based upon periodic compliance checks or complaints to the commission. This provision also authorizes the commission to continue an approval or to suspend or revoke approval based upon the organization's compliance with the approved sanctioning standards and its ability to supervise matches in this state.

Section 6. The bill amends s. 548.008, F.S., to delete the provisions of the current subsection (1) which banned amateur toughman or badman matches. In its place, the bill provides that no match that utilizes strikes to the head may be held in this state unless it is sanctioned and supervised by an amateur sanctioning organization approved by the commission.

The bill provides that no professional match may be held unless it meets the statutory and rule requirements for holding the match. The bill also prohibits amateur mixed martial arts matches.

Section 7. The bill amends s. 548.007, F.S., to exempt from the provisions of ch. 548, F.S., matches conducted or sponsored by a bona fide nonprofit boxing, kickboxing, or martial arts school or education program. The match must be limited to participants who are students of the school or instructional program.

The bill also exempts matches conducted or sponsored by any company or detachment of the Florida National Guard. The match participants must be members of the Florida National Guard.

This bill would subject the following matches to the commission's jurisdiction and the applicable provisions of ch. 548, F.S.: which are not subject to such jurisdiction under current law:

- Any match conducted or sponsored by a university, college, or secondary school if all the participants are students regularly enrolled in the institution;
- Any match conducted or sponsored by a nationally chartered veterans' organization registered with the state;
- Any official Olympic event.

The bill does not bar these organizations from conducting or sponsoring amateur boxing or kickboxing matches. According to the representative for the commission, to the extent that any of these organizations conducts or sponsors amateur boxing matches, they are either associated with USA Boxing or utilize health and safety standards that are as stringent as those of USA Boxing.

Section 8. The bill amends s. 548.056, F.S., to delete promoters from the list of persons restricted from having a financial interest in a match participant.

Section 9. This bill would take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the commission, this legislation would have minimal fiscal impact and require no additional appropriations or employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
